

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3385

IN THE MATTER OF:

Served August 8, 1989

Application of THE AIRPORT)
CONNECTION, INC., for a Certificate) Case No. AP-88-57
of Public Convenience and Necessity)
-- Charter Operations)

By application filed November 22, 1988, The Airport Connection, Inc. (TAC), seeks a certificate of public convenience and necessity to transport passengers, together with baggage in the same vehicle as passengers, in charter operations between Washington National Airport (National), Arlington County, VA, and Washington Dulles International Airport (Dulles), Loudoun County, VA, on the one hand, and, on the other, points in the Metropolitan District, restricted to the transportation of passengers and air crews having a prior or subsequent movement by air, and further restricted against transportation solely within the Commonwealth of Virginia.

Pursuant to Order No. 3304, served March 13, 1989, and incorporated by reference herein, a public hearing was held on May 11, 1989. No protests to the application were filed, and at hearing the matter was uncontested. 1/

SUMMARY OF EVIDENCE

As this is not a typical application for new operating authority, a brief review of the background of this request for restricted charter authority appears in order. TAC formerly held in Part B of its WMATC Certificate No. 111 authority to provide charter service between all points in the Metropolitan District, except points in Montgomery County, MD. Points in Montgomery County could only be served in charter operations to and from National and Dulles, with service further restricted to the transportation of passengers and air crews having a prior or subsequent movement by air. TAC found it necessary several years ago to seek protection from its creditors under Section 11 of the Bankruptcy Reform Act of 1978, and since that time has operated under the jurisdiction of the United States Bankruptcy Court at Baltimore, MD. As part of a complex plan of reorganization, the Bankruptcy Court approved the acquisition of ownership of 100 percent of the stock of TAC by Ronald M. B. Cook and, as part of the consideration for the purchase of such stock, approved the transfer

1/ By Order No. 3303, served March 13, 1989, TAC was granted temporary authority to provide the service proposed herein, which will expire September 8, 1989, unless otherwise ordered by the Commission.

by TAC of its charter authority in Certificate No. 111 to Airport Baggage Carriers, Inc. (ABC), a corporation owned by the former management of TAC. By Order No. 3302, served March 13, 1989, in Case No. AP-88-27, Application of The Airport Connection, Inc., to Transfer a Portion of Certificate No. 111 to Airport Baggage Carriers, Inc., this Commission approved the transfer to ABC of the charter rights of TAC. The instant application and the corresponding application of TAC for temporary authority were filed with this Commission in order for that carrier to obtain sufficient charter authority to fulfill its obligations under its contract with the Metropolitan Washington Airports Authority (MWAA).

Mr. Alban W. Smith, TAC's director of sales, testified at the hearing. Mr. Smith has been employed by TAC in his present position since 1984, except for one year when he was employed in a similar capacity by another local passenger carrier. The witness' responsibilities involve the marketing of TAC's special operations and charter services. The witness actively solicits charter business from a variety of sources. These include organizations with groups visiting the Washington area and companies doing convention and conference planning in the Metropolitan District whose clients will be staying at local hotels. These groups require airport transfers and related charter service. Much of the charter work handled by TAC is referred to it by hotels and airlines. Hotels are actively solicited by TAC because they are in a position to recommend its service to groups staying at their facilities. The airlines require charter services for groups of passengers diverted to other airports because of flight delays due to bad weather or mechanical problems. On these diversions, TAC is called upon to transport passengers by motor coach or van to designated hotels in the Washington area. Frequently, applicant will be directed by the airlines to transport the same passengers back to the airports the following day.

TAC presently operates a fleet of ten 45-passenger motor coaches and 30 vans seating 11 passengers in addition to the driver. Also, 25 new seven-passenger vans are on order for use in the Washington Flyer shuttle service. The ten motor coaches operated by TAC are owned by MWAA and are leased to the applicant for use in its service under contract with that agency. The motor coaches are used principally in per capita line service between National and Dulles and downtown Washington. This line service is performed under TAC's contract with MWAA and currently involves service between the airports and the new MWAA terminal at 1517 K Street, N.W., and the Mayflower, Capitol Hilton, Washington Hilton and Sheraton Washington hotels. This service operates seven days a week between 4:15 a.m. and 1:15 a.m. Six coaches are used in the service to and from Dulles and two coaches to and from National. Vans also are used on these line runs when passenger volumes permit. Two motor coaches and most of the van fleet are generally available for charter at all times. It also is possible from time to time to use coaches operated in line service for charters of short duration.

The revenue of TAC from charter operations in the first four months of 1989 amounted to \$80,685. This included revenue of \$16,840 in January; \$6,598 in February; \$27,883 in March, and \$29,364 in April. TAC considers the revenues for March and April to be typical of future charter revenues and believes that any projection of annual income should be predicated on experience in that two-month period. However, it is confident that future revenues will actually exceed the level of earnings in March and April of 1989.

An amended tariff, WMATC Tariff No. 10, replacing the tariff filed with the application, was submitted by applicant at hearing. WMATC Tariff No. 10 had been filed and approved separately from this proceeding. 2/ The amended tariff provides for hourly charges for charter service of \$45 per van and \$48 per motor coach, subject to a four-hour minimum. The rates for direct transfers between the airports and points in the Metropolitan District are \$175 to or from National and \$235 to or from Dulles. Although TAC is currently operating at a loss, profitable operations are forecast for each of the next five years even though it is proposed to pay off creditors in the same period.

TAC's operations are performed in consonance with a safety program. Its management is familiar with and will continue to abide by the Motor Carrier Safety Regulations promulgated by the U.S. Department of Transportation. The company has a full-time safety director, and its employment director screens employees as to safety related matters. In addition, TAC employs a consulting firm that assists it in driver training and testing. TAC investigates the prior employment and driving records of all prospective drivers. TAC's management is familiar with the Compact and our rules and regulations, and it intends to continue to conform to those requirements with respect to the charter operations proposed in this proceeding.

Mr. James T. Wall, vice president of TAC and general manager of its Washington Flyer shuttle division, testified that all of the thirty 11-passenger vans now operated by TAC are leased rather than owned. Also the 25 smaller vans on order will probably be leased rather than purchased. The 30 vans in TAC's existing fleet are all fully insured and in operation. This van equipment is now used primarily to provide service between the airports and hotels in Bethesda, Gaithersburg, Rockville, and Silver Spring, MD, and Tysons Corner and Rosslyn, VA. When TAC is unable to meet all requests for service with its own equipment, it charters equipment from other carriers. When breakdowns of van equipment occur en route, TAC uses taxis at its expense to complete the movement. The projections of profitable operations by applicant in the future are based upon the operation of a fleet of 55 vans.

Mr. Derek Scott, manager of ground transportation services for MWAA, was authorized by his agency to represent it in this case and to support this application. MWAA signed the consent order entered in the

2/ See Case No. AP-88-63.

bankruptcy proceeding which provided that Mr. Cook would acquire the stock of TAC and take over management of the company from ABC in return in part for the transfer to that carrier of the charter authority of TAC.

TAC is MWAA's prime contractor for ground transportation from and to National and Dulles, both of which are operated by that agency. TAC is now operating under an extension of its contract and is negotiating for the further extension of its contract. TAC is expected by MWAA to provide under its contract scheduled point to point service with both buses and vans, charter service to handle diversions of passengers to other airports and hotels when occasioned by inclement weather or mechanical breakdowns, and shuttle service linking the airports with points in the Metropolitan District. MWAA also must have adequate charter service available for air crews that lay over in the Washington area and require service between the airports and area hotels. Additionally, adequate service is needed for use by tour agencies and tour groups for transfers and other movement to and from the airports. MWAA's contract with TAC requires that TAC meet the need of the airlines for service on diversions and expects TAC to handle transfers to and from the airports within the limitations of its fleet size. MWAA wants to make the maximum use of TAC's service. The Washington Flyer trademark and trade name under which TAC operates are owned by MWAA.

DISCUSSION AND CONCLUSIONS

This application is governed by Title II, Article XII, Section 4(b) of the Compact which provides in pertinent part as follows:

. . . the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the transportation covered by the application, if it finds . . . that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity

Upon review of the entire record, we find that applicant is fit operationally, financially, and as to compliance. TAC is an experienced and adequately equipped carrier that has provided extensive service in both charter and special operations in the Metropolitan District for many years. In its operations under the regulatory jurisdiction of this Commission, applicant has demonstrated not only its ability to satisfactorily perform service such as is proposed in this proceeding, but its willingness to conform to the provisions of the Compact, our rules and regulations, and the safety regulations of the U.S. Department of Transportation. Although applicant presently is in reorganization under the Bankruptcy Act and its operations continue to be conducted at a loss, its projections of profitable operations in

the future appear reasonable. Moreover, the evidence of increasing revenues derived from charter service by TAC in the current year indicate that the proposed operations would produce a level of earnings that may assist in returning TAC to profitability and permit it to satisfy the claims of its creditors. In its supporting testimony in this case, MWAAs has demonstrated that both it and the public have a need for the applicant's charter service for the handling of diversions of passengers by the airlines, for the movement of air crews, and for the transfers and other charter services required by groups traveling between National and Dulles, on the one hand, and, on the other, points in the Metropolitan District.

We find that TAC has met its burden of proving that the public convenience and necessity require the proposed service, and the application will be granted. This Commission has consistently applied the three-part test developed by the Interstate Commerce Commission in Pan-American Bus Lines Operation (1 MCC 190, 203 [1936]) to determine whether an applicant has met this requirement of the Compact. A public need is shown on this record for TAC's proposed restricted charter service that will be directly related to the operations of the airports and to the needs of passengers making use of the facilities at National and Dulles. The lack of opposition to this application indicates that no carrier would be materially adversely affected by a grant of the authority sought.

THEREFORE, IT IS ORDERED:

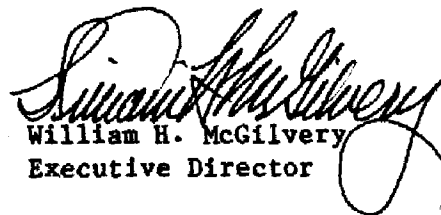
1. That The Airport Connection, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers, together with baggage in the same vehicle as passengers, in charter operations between Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA, on the one hand, and, on the other, points in the Metropolitan District, restricted to the transportation of passengers and air crews having a prior or subsequent movement by air, and further restricted against transportation solely within the Commonwealth of Virginia.

2. That The Airport Connection, Inc., shall file with the Commission the following: (a) an equipment list specifying make, model, serial number, seating capacity and license plate number (with jurisdiction) for each vehicle to be used in revenue service; (b) evidence of ownership or lease in conformance with Commission Regulation No. 69 for each vehicle to be used in revenue operations; (c) a certificate of insurance in accordance with Commission Regulation No. 62 covering all vehicles to be used in revenue operations; and (d) an affidavit of identification in accordance with Commission Regulation No. 67 for which purpose WMATC No. 111 is assigned.

3. That unless The Airport Connection, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order or such additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

4. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued The Airport Connection, Inc., in the form and as worded in the Appendix to this order.

BY THE DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 111

THE AIRPORT CONNECTION, INC.

By Order Nos. 2578, 2706, 3302, and 3385 of the Washington Metropolitan Area Transit Commission, served July 13, 1984; May 21, 1985; March 13, 1989, and August 8, 1989;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order Nos. 2578, 2706, 3302, and 3385;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES

PART A

SPECIAL OPERATIONS, transporting passengers and their baggage, in the same vehicle with passengers, between Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA, on the one hand, and, on the other, points in the Metropolitan District.

PART B

CHARTER OPERATIONS, transporting passengers and their baggage, in the same vehicle with passengers, between Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA, on the one hand, and, on the other, points in the Metropolitan District.

RESTRICTED in PART B to the transportation of passengers and air crews having a prior or subsequent movement by air,

AND FURTHER RESTRICTED in PARTS A and B against transportation solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.